

## **REMARKS**

The applicants have carefully considered the official action mailed on May 24, 2007, and the reference cited therein. In the official action, claims 1-24 were rejected under 35 U.S.C. § 102(e) as anticipated by Ruf (U.S. 6,665,865) and claims 4, 5, 13, 20, 21, and 23 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite for failing to particularly point out and distinctly claim the subject matter which the applicants regard as the invention. In addition, the oath/declaration executed by the inventors was indicated as defective for not stating that the inventive entity comprises joint inventors. Also, the specification was objected to for missing a summary section and for containing trademarked terms not accompanied by their respective generic terminology to preserve the proprietary nature of the marks.

### **I. Oath/Declaration**

The applicants respectfully submit that the oath/declaration executed by all of the inventors and filed in this application complies with 37 C.F.R. § 1.63, which no longer requires the oath/declaration to state that the inventive entity comprises a sole inventor or joint inventors. *See MPEP* § 602(IV). Accordingly, the applicants respectfully submit that the filed oath/declaration is valid and request withdrawal of the objection thereto.

### **II. Objections to The Specification**

#### **a. Summary Section**

The applicants respectfully submit that the specification complies with 37 C.F.R. 1.77(b). In particular, the applicants respectfully submit that a summary section is not required. On the contrary, 37 C.F.R. 1.77(b) merely sets out guidelines for a permissible specification format indicating, “The specification *should* include the

following...” *See* 37 C.F.R. 1.77(b) (emphasis added). However, 37 C.F.R. 1.77(b) does not indicate the specification *shall* or must include a summary section.

Accordingly, the applicants elect to not incorporate the optional summary section and respectfully request withdrawal of the related objection to the specification.

**b. Use of Trademarked Terms**

By way of this response, the applicants have amended paragraphs [0003] and [0018] the specification to clarify that the term JVM® is a registered trademark by placing the Federal registration mark ‘®’ next to the trademarked term, using the trademarked term in connection with its generic terminology, and ensuring that the term is capitalized throughout the specification.

With respect to the term ‘Java,’ the applicants respectfully submit that this term does not appear to be registered in the Federal trademark register for the purpose of identifying the goods or source for which the term is used in this application. Accordingly, the applicants respectfully submit that no amendments to the specification are necessitated by the use of the term ‘Java.’

Accordingly, in view of the above remarks and the amendments to the specification, the applicants respectfully submit that the application complies with the formalities concerning uses of trademarked terms.

**c. Informality of Claim 2**

By way of this response, the applicants have amended claim 2 to recite “A method as defined.” Accordingly, the applicants respectfully request withdrawal of the objection over the claim informality of claim 2.

### **III. Rejections under 35 U.S.C. § 112**

By way of this response, the applicants have amended claims 4, 5, 13, 20, 21, and 23 to correct the antecedent basis issues identified by the examiner. Accordingly, the applicants respectfully request withdrawal of the 35 U.S.C. § 112 rejections of claims 4, 5, 13, 20, 21, and 23.

### **IV. Rejections under 35 U.S.C. § 102**

The applicants respectfully submit that independent claim 1 is allowable over the art of record. Claim 1 is directed to a method that involves, *inter alia*, determining an age of an equivalence class. The examiner contends that Ruf describes determining an age of an equivalence class. On the contrary, the applicants respectfully submit that Ruf does not describe or suggest this element. Instead, Ruf describes that each of a plurality of thread allocation sites is identified with a number and that each procedure that is executable by one or more of the thread allocation sites is marked with the respective number(s) of that or those thread allocation sites. *Ruf*, 7:13-17. For example, a procedure that is executable by only one thread allocation site is marked with only the number used to identify that thread allocation site, while a procedure that is executable by two thread allocation sites is marked with a first number used to identify the first allocation site and a second number used to identify the second thread allocation site.

The quantity of thread allocation site identification numbers with which a Ruf procedure is tagged does not constitute an age as recited in claim 1. Instead, the quantity of thread allocation site identification numbers merely reflects the number of thread allocation sites that can execute a particular procedure. In Ruf, age is completely independent of the quantity of thread allocation identification numbers. In

particular, a first procedure that is very old might only be executable by one thread allocation site and, thus, will only be marked with one thread allocation site identification number. In contrast, a second procedure that is relatively young and executable by multiple thread allocation sites will be marked with relatively more thread allocation site identification numbers than the first procedure. Merely analyzing the quantity of thread allocation site identification numbers as described by Ruf would not render any meaningful information related to the ages of the first and second procedures.

In view of the above, Ruf does not describe or suggest determining an age of an equivalence class and, thus, does not describe or suggest each and every element of claim 1. Accordingly, the applicants respectfully submit that Ruf cannot anticipate claim 1 and, thus, independent claim 1 and all claims dependent thereon are in condition for allowance.

The applicants respectfully submit that independent claims 9 and 17 are also allowable over the art of record for at least the reason discussed above in connection with claim 1. Accordingly, the applicants respectfully submit that independent claims 9 and 17 and all claims dependent thereon are in condition for allowance.

For at least the foregoing reasons, the applicants respectfully submit that all pending claims are in condition for allowance. If there are any remaining issues in this application, the applicants invite the examiner to contact the undersigned attorney at the number listed below.

The Commissioner is authorized to charge any deficiency in the enclosed check toward payment of any fee due for the filing of this paper to deposit account number 50-2455.

Respectfully submitted,

Hanley, Flight & Zimmerman, LLC  
(at customer number **34431**)  
150 South Wacker Drive  
Suite 2100  
Chicago, Illinois 60606  
(312) 580-1020

**September 24, 2007**

By: /Mark G. Hanley/  
Mark G. Hanley  
Registration No.: 44,736  
Attorney for Applicants